

Before the State of South Carolina
Department of Insurance

In the matter of:

Hegwood & Todd, LLC
33 Market Point Drive
Greenville, South Carolina 29607.

SCDOI File Number 2003-119107

**Consent Order
Imposing Administrative Fine**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Hegwood and Todd, LLC (the Agency) a licensed South Carolina resident insurance agency.

The Agency hereby admits, and I find as fact, that it sponsored an advertisement in the Greenville News which contained a statement that annuities it offered were guaranteed by the State of South Carolina up to \$300,000 per person. The Agency has asserted that this act was not intentional, but resulted from oversight in reviewing the advertisement. The statement at issue was wholly inaccurate, in that the guaranty referenced actually is offered by the South Carolina Life and Accident and Health Insurance Guaranty Association, a statutory entity comprised of the Life, Accident and Health insurers admitted to transact business in the state, and not the State of South Carolina itself. The statement also was misleading, because it did not even suggest the various terms and conditions requisite for that guaranty to operate under South Carolina law. Moreover, South Carolina law directly prohibits use of such a statement in insurance advertising.

Rather than contest this case, the parties have agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision. The consensual recommendation was that, in lieu of the Department seeking to revoke the agency's license, the Agency would waive its right to a public hearing and submit, via certified check, an administrative fine though the Department in the total amount of \$500.

Section 38-29-140 (5) of the South Carolina Code provides that "It is a prohibited unfair trade practice for any person to make use in any manner of the protection afforded by [the South Carolina Life and Accident and Health Insurance Guaranty Association] in the sale of insurance." Section 38-43-130 provides me with authority to revoke..."an agent's license after ten days' notice...when it appears that an agent has violated this title or any regulation promulgated by the department...." Section 38-43-30 provides that the term "agent" as used in the state's insurance laws is considered to include an agency, unless the context requires otherwise.

After a thorough review of the record, carefully considering the recommendation of the parties, and in accordance with my findings of fact, I now conclude, as a matter of law, that the Agency has violated § 38-29-140(5) of the South Carolina Code. Although I can

now revoke the Agency's license, under the discretionary authority provided to me by the General Assembly within §§ 38-2-10 (1) and 38-43-130, I hereby impose against the Agency an administrative fine in the total amount of \$500. That fine must be paid within thirty days of the date of my signature upon this consent order. If that total fine amount is not timely paid, the Agency's license will be summarily revoked without any further disciplinary proceedings.

The parties reached this recommendation as a result of negotiation and compromise, and is made in consideration of the facts of this case, as reflected in the Department's file, the Agency's assurance that it has taken steps internally to prevent this situation from recurring, and that it will fully comply with the insurance laws of South Carolina in the future. The parties expressly agree and understand the Agency's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter. This penalty includes all expenses related to investigation of this matter as provided in § 38-13-70 of the South Carolina Code.

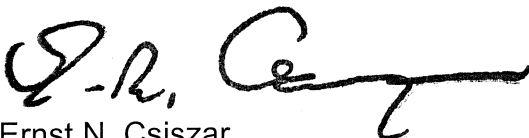
By the signature of one of its representatives upon this consent order, the Agency acknowledges that it understands that this administrative order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. § 30-4-10, *et seq.* (1991 and Supp. 2003). Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty, pursuant to § 38-3-110, of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is therefore ordered that Hegwood & Todd, LLC shall, within ten days of the date of my signature on this consent order, pay through the South Carolina Department of Insurance an administrative fine in the total amount of \$500.

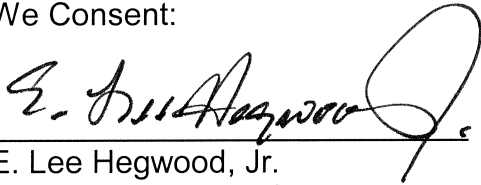
It is further ordered that a copy of this Order be transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in the Agency's licensing file.

This consent order becomes effective as of the date of my signature below.

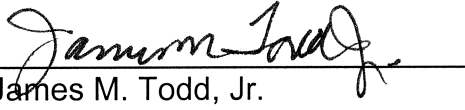
March 8
06 February 2004, at
Columbia, South Carolina


Ernst N. Csiszar
Director

We Consent:



E. Lee Hegwood, Jr.



James M. Todd, Jr.

Hegwood & Todd, LLC
33 Market Point Drive
Greenville, South Carolina 29607.

Dated this 28 day of February 2004